(43)

HIGH COURT OF CHHATTISGARH, BILASPUR

W.P(S). No.6417 OF 2007

PETITIONER		U.S. Dubey, aged 47 years, s/o Shri Moti Lal Dubey, r/o Chandani Chowk, Kududand, Tahsil & Distt. Bilaspur (C.G)
		Versus
RESPONDENTS	1	State of Chattisgarh, Through the Principal Secretary,. Tribal Welfare Department, Mantralaya, D.K.S. Bhavan, Raipur (C.G.).
	2	Assistant Commissioner, Tribal Welfare Department, Bilaspur (C.G)
	3.	Director, Tribal Welfare Department, Raipur (C.G)
	4.	Collector, Bilaspur (C.G)

WRIT PETITION UNDER ARTICLE 226 OF THE CONSTITUTION OF INDIA

Appearance:

Shri Kamal Pandey, counsel f or the petitioner.

Shri Satish Gupta, Deputy Govt. Advocate, for the State/ respondents on advance copy.

ORAL ORDER
(06.11.2007)

SUNIL KUMAR SINHA, J

Heard on admission.

The petitioner, who is working on the post of Accountant, has been transferred from the office of Assistant Commissioner, Tribal Development, Bilaspur to Higher Secondary School, Madanpur, Distt. Korba, on administrative grounds. This order was passed on 07th July 2007. The said order was challenged by the petitioner on the health ground in earlier writ petition i.e., W.P(S) No.5570/2007 and the said petition was disposed of as withdrawn on the ground that a representation was already filed by the petitioner before the concerned authority and the same was likely to be decided.

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Learned counsel for the petitioner submits that the representation filed by the petitioner has not been decided so far. Therefore, the petitioner has to file this second writ petition. He again submits that the petitioner is a patient of Coronary Artery disease and he is taking regular treatment from Apollo Hospital, Bilaspur, therefore, his placement at a distance of 150 Kms. from Bilaspur would not be helpful to the health of the petitioner.

Needless to say, these are not the grounds for interference in an order of transfer by a court of law.

Transfer is an incidence of service. No person working on a transferable post can claim to be posted at a particular place. It is for the employer to see that who should be posted where in the interest of better functioning of the department as also in the public interest. It is the settled view of the Apex Court that unless the order of transfer is vitiated by malafides or extraneous consideration or is against any statutory Rules or Act, it cannot be interfered by a Court of Law.

Learned counsel for the petitioner could not make out a case either of arbitrariness or of malafide or of extraneous consideration or that the transfer order is passed against any statutory rules or the Act.

In view of the above, I am not inclined to interfere with the order passed by the concerned authority. However, I still say that the concerned authority is free to consider the representation of the petitioner on the health ground because it is for the employer to look into such problems of its employee and to get better service from him.

This petition is disposed of with the aforesaid observations.

Sd/-
Sunil Kumar Sinha
Judge

Rao